

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA, :

Plaintiff, :

Case No. 3:04CR002

Case No. 3:06CV391

VS.

District Judge Walter Herbert Rice

Magistrate Judge Sharon L. Ovington

RODNEY NICHOLS,

Defendant.

DECISION AND ENTRY ADOPTING REPORT AND RECOMMENDATIONS FILED ON MAY 30, 2008 (DOC. #68); DENYING DEFENDANT'S MOTION TO VACATE, SET ASIDE OR CORRECT SENTENCE (DOC.#46); CASE REMAINS PENDING ON DEFENDANT'S MOTION FOR RETROACTIVE APPLICATION OF SENTENCING GUIDELINES TO CRACK COCAINE OFFENSE (DOC. #61)

The Court has conducted a de novo review of the Report and Recommendations of United States Magistrate Judge Sharon L. Ovington (Doc. #68), to whom this case was originally referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, hereby **ADOPTS** in full said Report and Recommendations. It is therefore **ORDERED** that:

1. Defendant Nichols' Motion to Vacate, Set Aside, or Correct Sentence (Doc. #46) is DENIED; and
2. The case remains pending on Nichols' Motion for Retroactive Application of Sentencing Guidelines to Crack Cocaine Offense (Doc. #61).

W. R. R. R.

Walter Herbert Rice
United States District Judge